

Decision 03-06-059 June 19, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of BayPorter Express to add Routes to currently authorized on-call service areas to include on-call service between San Francisco County, on the one hand, and San Francisco Airport, on the other hand.

Application 03-03-007
(Filed March 6, 2003)

O P I N I O N

Summary

This decision grants the application of BayPorter Express (Applicant), a corporation, pursuant to Pub. Util. Code § 1031 et seq., to extend its certificate of public convenience and necessity to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226.

Discussion

Applicant is currently authorized to transport passengers and their baggage pursuant to Decision (D.) 87-05-080, as amended, (1) on an on-call basis between points in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, on the one hand, and San Francisco International Airport (SFO), Oakland International Airport (OAK), and San Jose International Airport (SJC), on the other hand; and (2) on a scheduled basis between SFO and Richmond, Concord, OAK and SJC, and between Stanford University and SJC.¹

¹ D.93-06-071 granted Applicant additional authority to operate between San Francisco and Marin Counties, on the one hand, and SFO, OAK, and SJC, on the other hand. The authority expired, however, because Applicant failed to file a tariff and exercise the authority within the time required by the decision.

This application requests extension of Applicant's PSC certificate to include on-call service between San Francisco and SFO. Applicant states that authority to serve San Francisco will give it flexibility in serving its passengers. For example, a passenger might travel from home in the East Bay to SFO, but on the return trip wish to be delivered to his or her office in San Francisco. Applicant also wants to be in a position to meet an upcoming requirement of SFO, which is reorganizing its boarding zones to require five shuttle companies to serve San Francisco. Applicant proposes to charge \$17 between SFO and the downtown area and \$19 to other parts of the city.

Notice of filing of the application appeared in the Commission's Daily Calendar on March 11, 2003. Applicant notified the affected city, airport, and transit agency.

In Resolution ALJ 176-3109 dated March 13, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3109.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Applicant is currently authorized to operate as a PSC (1) on an on-call basis between points in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, on the one hand, and SFO, OAK, and SJC on the other hand; and (2) on a

scheduled basis between SFO and Richmond, Concord, OAK, and SJC, and between Stanford University and SJC.

2. The application requests authority to extend the on-call PSC service to include transportation of passengers and their baggage between the San Francisco and SFO.

3. Public convenience and necessity requires the proposed service.

4. No protest to the application has been filed.

5. A public hearing is not necessary.

6. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application should be granted.

2. Since the matter is uncontested, the decision should be effective on the date it is signed.

3. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. The certificate of public convenience and necessity (CPCN) granted to BayPorter Express (Applicant), a corporation, authorizing it to operate as a passenger stage corporation (PSC), as defined in Pub. Util. Code § 226, to transport persons and their baggage, between the points and over the routes set forth in Appendix PSC-1442 of Decision 87-05-080, is further amended by

replacing Fourth Revised Pages 3 and 4 with Fifth Revised Pages 3 and 4, subject to the conditions contained in the following paragraphs.

2. Applicant shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. They shall become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. Applicant is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Applicant's vehicles for service.

4. Before beginning service to any airport, Applicant shall notify the airport's governing body. Applicant shall not operate into or on airport property unless such operations are authorized by the airport's governing body.

5. The CPCN to operate as PSC-1442, granted herein, expires unless exercised within 120 days after the effective date of this order.

6. The Application is granted as set forth above.

7. This proceeding is closed.

This order is effective today.

Dated June 19, 2003, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners

SECTION II. SAN FRANCISCO BAY AREA SERVICE AREA.

All points and places within the geographical limits of the Counties of Alameda, Contra, Costa, San Mateo, Santa Clara, and *San Francisco.

SECTION III. ROUTE DESCRIPTIONS.

A. **Scheduled Service**

Route 1 - Concord/SFO

Commencing from Sheraton Hotel, 41 John Glenn Drive, Concord, then over the most convenient streets and highways to:
BART Station, Walnut Creek (flag stop),
BART Station, Orinda (flag stop), and then to San Francisco International Airport (SFO).

Route 2 - SJC/SFO

Commencing from San Jose International Airport (SJC), then over the most convenient streets and highways to:
Marriott Hotel, Great American Parkway, Santa Clara,
Sheraton Hotel at 110 N. Mathilda, Sunnyvale,
Rickey's Hyatt House at 4219 El Camino, Palo Alto,
Holiday Inn at 625 El Camino, Palo Alto,
Stanford University Oval in Palo Alto and then to SFO.

Route 3 - Stanford University Oval/SJC

Commencing from Stanford University Oval in Palo Alto, then over the most convenient streets and highways to:
Holiday Inn at 625 El Camino, Palo Alto,
Rickey's Hyatt House at 4219 El Camino, Palo Alto,
Sheraton Hotel at 110 N. Mathilda, Sunnyvale,
Marriott Hotel, Great American Parkway, Santa Clara and then to SJC.

Issued by California Public Utilities Commission.

*Revised by Decision 03-06-059, Application 03-03-007.

SECTION III. ROUTE DESCRIPTIONS (concluded).

A. **Scheduled Service**

Route 4 - Richmond/SFO

Commencing from Days Hotel, Hilltop Shopping Center, Richmond, then over the most convenient streets and highways to:
San Pablo and Marin Streets, Albany,
North Berkeley BART Station, Berkeley,
Days Inn, 547 Powell, Emeryville and then to SFO.

Route 5 - OAK/SFO

Commencing from Oakland International Airport (OAK), then over the most convenient streets and highways to:
Parc Oakland Hotel, 10th and Broadway, Oakland,
Main Gate, Treasure Island and then to SFO.

B. **On-Call Service**

Route A – Bay Area Counties/SFO, OAK, SJC

Commencing from any point within the authorized service area described in Section II except San Francisco County, then via the most convenient streets and highways to SFO, OAK, or SJC.

*Route B – San Francisco/SFO

Commencing from any point in the County of San Francisco then via the most convenient streets and highways to SFO.